

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DWAYNE EICHLER,

Plaintiff, No. 2:04-cv-1108-GEB-JFM (PC)

vs.

CDC OFFICER SHERBIN, et al.,

Defendants. ORDER

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Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed June 23, 2010, the United States Court of Appeals for the Ninth Circuit vacated the grant of summary judgment to Mercy Hospital on a claim under the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. § 1395dd (EMTALA) and remanded the matter to this court with instructions to reopen discovery on that claim. The court of appeals also vacated the dismissal of plaintiff's state law medical malpractice and negligence claims ““to permit the district court once again to determine whether to exercise its supplemental jurisdiction in light of the proceedings on remand.”” Eichler v. Sherbin, No. 08-16404, slip op. at 5 (9th Cir. Jun 23, 2010) (quoting Fredenburg v. County of Contra Costa Dep’t of Health Servs., 172 F.3d 1176, 1183 (9th Cir. 1999)).

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In accordance with the order of remand, a new scheduling order is issued concurrently with this order. In addition, IT IS HEREBY ORDERED that within fifteen days from the date of this order, all parties shall file a brief addressing whether the court should exercise supplemental jurisdiction over plaintiff's state law claims.

DATED: July 1, 2010.

John F. Wark  
UNITED STATES MAGISTRATE JUDGE

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